
HOUSE BILL 1656

State of Washington

56th Legislature

1999 Regular Session

By Representative Thomas

Read first time 02/02/1999. Referred to Committee on Finance.

1 AN ACT Relating to gas service taxes; amending RCW 82.04.060,
2 82.04.460, 82.08.020, 82.12.010, 82.12.020, 82.12.023, 82.12.035,
3 82.14.020, 82.14.030, 82.14.045, 82.14.0485, 82.14.0494, 82.14.370,
4 81.104.170, 82.16.010, 82.16.020, 82.16.050, 82.16.090, 35.21.710,
5 35.21.711, 35.21.860, 35.21.865, 35.21.870, and 35A.82.050; reenacting
6 and amending RCW 82.04.050 and 82.04.190; adding a new section to
7 chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a
8 new section to chapter 82.14 RCW; creating a new section; repealing RCW
9 82.08.026, 82.12.022, and 82.14.230; and providing an effective date.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 **PART I**

12 **GENERAL DEFINITIONS AND BUSINESS AND OCCUPATION TAX**

13 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.04
14 RCW, to be codified before RCW 82.04.220, to read as follows:

15 "Gas service" means the provision of natural or manufactured gas
16 through a pipeline, including but not limited to generation,
17 production, transmission, aggregation, distribution, and delivery.

1 **Sec. 102.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998
2 c 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as
3 follows:

4 (1) "Sale at retail" or "retail sale" means every sale of tangible
5 personal property (including articles produced, fabricated, or
6 imprinted) to all persons irrespective of the nature of their business
7 and including, among others, without limiting the scope hereof, persons
8 who install, repair, clean, alter, improve, construct, or decorate real
9 or personal property of or for consumers other than a sale to a person
10 who presents a resale certificate under RCW 82.04.470 and who:

11 (a) Purchases for the purpose of resale as tangible personal
12 property in the regular course of business without intervening use by
13 such person; or

14 (b) Installs, repairs, cleans, alters, imprints, improves,
15 constructs, or decorates real or personal property of or for consumers,
16 if such tangible personal property becomes an ingredient or component
17 of such real or personal property without intervening use by such
18 person; or

19 (c) Purchases for the purpose of consuming the property purchased
20 in producing for sale a new article of tangible personal property or
21 substance, of which such property becomes an ingredient or component or
22 is a chemical used in processing, when the primary purpose of such
23 chemical is to create a chemical reaction directly through contact with
24 an ingredient of a new article being produced for sale; or

25 (d) Purchases for the purpose of consuming the property purchased
26 in producing ferrosilicon which is subsequently used in producing
27 magnesium for sale, if the primary purpose of such property is to
28 create a chemical reaction directly through contact with an ingredient
29 of ferrosilicon; or

30 (e) Purchases for the purpose of providing the property to
31 consumers as part of competitive telephone service, as defined in RCW
32 82.04.065.

33 The term shall include every sale of tangible personal property
34 which is used or consumed or to be used or consumed in the performance
35 of any activity classified as a "sale at retail" or "retail sale" even
36 though such property is resold or utilized as provided in (a), (b),
37 (c), (d), or (e) of this subsection following such use. The term also
38 means every sale of tangible personal property to persons engaged in

1 any business which is taxable under RCW 82.04.280 (2) and (7) and
2 82.04.290.

3 (2) The term "sale at retail" or "retail sale" shall include the
4 sale of or charge made for tangible personal property consumed and/or
5 for labor and services rendered in respect to the following:

6 (a) The installing, repairing, cleaning, altering, imprinting, or
7 improving of tangible personal property of or for consumers, including
8 charges made for the mere use of facilities in respect thereto, but
9 excluding charges made for the use of coin-operated laundry facilities
10 when such facilities are situated in an apartment house, rooming house,
11 or mobile home park for the exclusive use of the tenants thereof, and
12 also excluding sales of laundry service to nonprofit health care
13 facilities, and excluding services rendered in respect to live animals,
14 birds and insects;

15 (b) The constructing, repairing, decorating, or improving of new or
16 existing buildings or other structures under, upon, or above real
17 property of or for consumers, including the installing or attaching of
18 any article of tangible personal property therein or thereto, whether
19 or not such personal property becomes a part of the realty by virtue of
20 installation, and shall also include the sale of services or charges
21 made for the clearing of land and the moving of earth excepting the
22 mere leveling of land used in commercial farming or agriculture;

23 (c) The charge for labor and services rendered in respect to
24 constructing, repairing, or improving any structure upon, above, or
25 under any real property owned by an owner who conveys the property by
26 title, possession, or any other means to the person performing such
27 construction, repair, or improvement for the purpose of performing such
28 construction, repair, or improvement and the property is then
29 reconveyed by title, possession, or any other means to the original
30 owner;

31 (d) The sale of or charge made for labor and services rendered in
32 respect to the cleaning, fumigating, razing or moving of existing
33 buildings or structures, but shall not include the charge made for
34 janitorial services; and for purposes of this section the term
35 "janitorial services" shall mean those cleaning and caretaking services
36 ordinarily performed by commercial janitor service businesses
37 including, but not limited to, wall and window washing, floor cleaning
38 and waxing, and the cleaning in place of rugs, drapes and upholstery.
39 The term "janitorial services" does not include painting, papering,

1 repairing, furnace or septic tank cleaning, snow removal or
2 sandblasting;

3 (e) The sale of or charge made for labor and services rendered in
4 respect to automobile towing and similar automotive transportation
5 services, but not in respect to those required to report and pay taxes
6 under chapter 82.16 RCW;

7 (f) The sale of and charge made for the furnishing of lodging and
8 all other services by a hotel, rooming house, tourist court, motel,
9 trailer camp, and the granting of any similar license to use real
10 property, as distinguished from the renting or leasing of real
11 property, and it shall be presumed that the occupancy of real property
12 for a continuous period of one month or more constitutes a rental or
13 lease of real property and not a mere license to use or enjoy the same;

14 (g) The sale of or charge made for tangible personal property,
15 labor and services to persons taxable under (a), (b), (c), (d), (e),
16 and (f) of this subsection when such sales or charges are for property,
17 labor and services which are used or consumed in whole or in part by
18 such persons in the performance of any activity defined as a "sale at
19 retail" or "retail sale" even though such property, labor and services
20 may be resold after such use or consumption. Nothing contained in this
21 subsection shall be construed to modify subsection (1) of this section
22 and nothing contained in subsection (1) of this section shall be
23 construed to modify this subsection.

24 (3) The term "sale at retail" or "retail sale" shall include the
25 sale of or charge made for personal, business, or professional services
26 including amounts designated as interest, rents, fees, admission, and
27 other service emoluments however designated, received by persons
28 engaging in the following business activities:

29 (a) Amusement and recreation services including but not limited to
30 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
31 for sightseeing purposes, and others, when provided to consumers;

32 (b) Abstract, title insurance, and escrow services;

33 (c) Credit bureau services;

34 (d) Automobile parking and storage garage services;

35 (e) Landscape maintenance and horticultural services but excluding
36 (i) horticultural services provided to farmers and (ii) pruning,
37 trimming, repairing, removing, and clearing of trees and brush near
38 electric transmission or distribution lines or equipment, if performed
39 by or at the direction of an electric utility;

1 (f) Service charges associated with tickets to professional
2 sporting events; and

3 (g) The following personal services: Physical fitness services,
4 tanning salon services, tattoo parlor services, steam bath services,
5 turkish bath services, escort services, and dating services.

6 (4) The term shall also include the renting or leasing of tangible
7 personal property to consumers and the rental of equipment with an
8 operator.

9 (5) The term shall also include the providing of telephone service,
10 as defined in RCW 82.04.065, or gas service to consumers.

11 (6) The term shall also include the sale of canned software other
12 than a sale to a person who presents a resale certificate under RCW
13 82.04.470, regardless of the method of delivery to the end user, but
14 shall not include custom software or the customization of canned
15 software.

16 (7) The term shall not include the sale of or charge made for labor
17 and services rendered in respect to the building, repairing, or
18 improving of any street, place, road, highway, easement, right of way,
19 mass public transportation terminal or parking facility, bridge,
20 tunnel, or trestle which is owned by a municipal corporation or
21 political subdivision of the state or by the United States and which is
22 used or to be used primarily for foot or vehicular traffic including
23 mass transportation vehicles of any kind.

24 (8) The term shall also not include sales of chemical sprays or
25 washes to persons for the purpose of postharvest treatment of fruit for
26 the prevention of scald, fungus, mold, or decay, nor shall it include
27 sales of feed, seed, seedlings, fertilizer, agents for enhanced
28 pollination including insects such as bees, and spray materials to:

29 (a) Persons who participate in the federal conservation reserve
30 program, the environmental quality incentives program, the wetlands
31 reserve program, and the wildlife habitat incentives program, or their
32 successors administered by the United States department of agriculture;

33 (b) farmers for the purpose of producing for sale any agricultural
34 product; and (c) farmers acting under cooperative habitat development
35 or access contracts with an organization exempt from federal income tax
36 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
37 fish and wildlife to produce or improve wildlife habitat on land that
38 the farmer owns or leases.

1 (9) The term shall not include the sale of or charge made for labor
2 and services rendered in respect to the constructing, repairing,
3 decorating, or improving of new or existing buildings or other
4 structures under, upon, or above real property of or for the United
5 States, any instrumentality thereof, or a county or city housing
6 authority created pursuant to chapter 35.82 RCW, including the
7 installing, or attaching of any article of tangible personal property
8 therein or thereto, whether or not such personal property becomes a
9 part of the realty by virtue of installation. Nor shall the term
10 include the sale of services or charges made for the clearing of land
11 and the moving of earth of or for the United States, any
12 instrumentality thereof, or a county or city housing authority. Nor
13 shall the term include the sale of services or charges made for
14 cleaning up for the United States, or its instrumentalities,
15 radioactive waste and other byproducts of weapons production and
16 nuclear research and development.

17 (10) Until July 1, 2003, the term shall not include the sale of or
18 charge made for labor and services rendered for environmental remedial
19 action as defined in RCW 82.04.2635(2).

20 **Sec. 103.** RCW 82.04.060 and 1998 c 332 s 5 are each amended to
21 read as follows:

22 "Sale at wholesale" or "wholesale sale" means any of the following
23 when not a sale at retail: (1) Any sale of tangible personal property;
24 (2) any sale of amusement or recreation services as defined in RCW
25 82.04.050(3)(a); (3) any sale of canned software; ~~((or))~~ (4) any sale
26 of telephone service as defined in RCW 82.04.065(~~(, which is not a sale~~
27 ~~at retail and))~~); or (5) any sale of gas service. "Sale at wholesale"
28 or "wholesale sale" also means any charge made for labor and services
29 rendered for persons who are not consumers, in respect to real or
30 personal property, if such charge is expressly defined as a retail sale
31 by RCW 82.04.050 when rendered to or for consumers: PROVIDED, That the
32 term "real or personal property" as used in this section shall not
33 include any natural products named in RCW 82.04.100.

34 **Sec. 104.** RCW 82.04.190 and 1998 c 332 s 6 and 1998 c 308 s 2 are
35 each reenacted and amended to read as follows:

36 "Consumer" means the following:

1 (1) Any person who purchases, acquires, owns, holds, or uses any
2 article of tangible personal property irrespective of the nature of the
3 person's business and including, among others, without limiting the
4 scope hereof, persons who install, repair, clean, alter, improve,
5 construct, or decorate real or personal property of or for consumers
6 other than for the purpose (a) of resale as tangible personal property
7 in the regular course of business or (b) of incorporating such property
8 as an ingredient or component of real or personal property when
9 installing, repairing, cleaning, altering, imprinting, improving,
10 constructing, or decorating such real or personal property of or for
11 consumers or (c) of consuming such property in producing for sale a new
12 article of tangible personal property or a new substance, of which such
13 property becomes an ingredient or component or as a chemical used in
14 processing, when the primary purpose of such chemical is to create a
15 chemical reaction directly through contact with an ingredient of a new
16 article being produced for sale or (d) purchases for the purpose of
17 consuming the property purchased in producing ferrosilicon which is
18 subsequently used in producing magnesium for sale, if the primary
19 purpose of such property is to create a chemical reaction directly
20 through contact with an ingredient of ferrosilicon;

21 (2)(a) Any person engaged in any business activity taxable under
22 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
23 telephone service (~~(as defined in RCW 82.04.065)~~) or gas service, other
24 than for resale in the regular course of business; (c) any person who
25 purchases, acquires, or uses any amusement and recreation service
26 defined in RCW 82.04.050(3)(a), other than for resale in the regular
27 course of business; and (d) any person who is an end user of software;

28 (3) Any person engaged in the business of contracting for the
29 building, repairing or improving of any street, place, road, highway,
30 easement, right of way, mass public transportation terminal or parking
31 facility, bridge, tunnel, or trestle which is owned by a municipal
32 corporation or political subdivision of the state of Washington or by
33 the United States and which is used or to be used primarily for foot or
34 vehicular traffic including mass transportation vehicles of any kind as
35 defined in RCW 82.04.280, in respect to tangible personal property when
36 such person incorporates such property as an ingredient or component of
37 such publicly owned street, place, road, highway, easement, right of
38 way, mass public transportation terminal or parking facility, bridge,
39 tunnel, or trestle by installing, placing or spreading the property in

1 or upon the right of way of such street, place, road, highway,
2 easement, bridge, tunnel, or trestle or in or upon the site of such
3 mass public transportation terminal or parking facility;

4 (4) Any person who is an owner, lessee or has the right of
5 possession to or an easement in real property which is being
6 constructed, repaired, decorated, improved, or otherwise altered by a
7 person engaged in business, excluding only (a) municipal corporations
8 or political subdivisions of the state in respect to labor and services
9 rendered to their real property which is used or held for public road
10 purposes, and (b) the United States, instrumentalities thereof, and
11 county and city housing authorities created pursuant to chapter 35.82
12 RCW in respect to labor and services rendered to their real property.
13 Nothing contained in this or any other subsection of this definition
14 shall be construed to modify any other definition of "consumer";

15 (5) Any person who is an owner, lessee, or has the right of
16 possession to personal property which is being constructed, repaired,
17 improved, cleaned, imprinted, or otherwise altered by a person engaged
18 in business;

19 (6) Any person engaged in the business of constructing, repairing,
20 decorating, or improving new or existing buildings or other structures
21 under, upon, or above real property of or for the United States, any
22 instrumentality thereof, or a county or city housing authority created
23 pursuant to chapter 35.82 RCW, including the installing or attaching of
24 any article of tangible personal property therein or thereto, whether
25 or not such personal property becomes a part of the realty by virtue of
26 installation; also, any person engaged in the business of clearing land
27 and moving earth of or for the United States, any instrumentality
28 thereof, or a county or city housing authority created pursuant to
29 chapter 35.82 RCW. Any such person shall be a consumer within the
30 meaning of this subsection in respect to tangible personal property
31 incorporated into, installed in, or attached to such building or other
32 structure by such person;

33 (7) Any person who is a lessor of machinery and equipment, the
34 rental of which is exempt from the tax imposed by RCW 82.08.020 under
35 RCW 82.08.02565, with respect to the sale of or charge made for
36 tangible personal property consumed in respect to repairing the
37 machinery and equipment, if the tangible personal property has a useful
38 life of less than one year. Nothing contained in this or any other

1 subsection of this section shall be construed to modify any other
2 definition of "consumer";

3 (8) Any person engaged in the business of cleaning up for the
4 United States, or its instrumentalities, radioactive waste and other
5 byproducts of weapons production and nuclear research and development;
6 and

7 (9) Until July 1, 2003, any person engaged in the business of
8 conducting environmental remedial action as defined in RCW
9 82.04.2635(2).

10 **Sec. 105.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to
11 read as follows:

12 (1) Any person rendering services taxable under RCW 82.04.290 and
13 maintaining places of business both within and without this state which
14 contribute to the rendition of such services shall, for the purpose of
15 computing tax liability under RCW 82.04.290, apportion to this state
16 that portion of his gross income which is derived from services
17 rendered within this state. Where such apportionment cannot be
18 accurately made by separate accounting methods, the taxpayer shall
19 apportion to this state that proportion of his total income which the
20 cost of doing business within the state bears to the total cost of
21 doing business both within and without the state.

22 (2) Notwithstanding the provision of subsection (1) of this
23 section, persons doing business both within and without the state who
24 receive gross income from service charges, as defined in RCW 63.14.010
25 (relating to amounts charged for granting the right or privilege to
26 make deferred or installment payments) or who receive gross income from
27 engaging in business as financial institutions within the scope of
28 chapter 82.14A RCW (relating to city taxes on financial institutions)
29 shall apportion or allocate gross income taxable under RCW 82.04.290 to
30 this state pursuant to rules promulgated by the department consistent
31 with uniform rules for apportionment or allocation developed by the
32 states.

33 (3) The department shall by rule provide a method or methods of
34 apportioning or allocating gross income derived from sales of telephone
35 or gas services taxed under this chapter, if the gross proceeds of
36 sales subject to tax under this chapter do not fairly represent the
37 extent of the taxpayer's income attributable to this state. The rules
38 shall be, so far as feasible, consistent with the methods of

1 apportionment contained in this section and shall require the
2 consideration of those facts, circumstances, and apportionment factors
3 as will result in an equitable and constitutionally permissible
4 division of the services.

5 **PART II**

6 **STATE SALES AND USE TAXES**

7 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.08
8 RCW to read as follows:

9 For purposes of this chapter, "gas service" is defined as provided
10 in chapter 82.04 RCW.

11 **Sec. 202.** RCW 82.08.020 and 1998 c 321 s 36 (Referendum Bill No.
12 49) are each amended to read as follows:

13 (1) There is levied and there shall be collected a tax on each
14 retail sale in this state. The tax is equal to three and five-tenths
15 percent of the selling price for sales of gas service. The tax is
16 equal to six and five-tenths percent of the selling price for other
17 sales.

18 (2) There is levied and there shall be collected an additional tax
19 on each retail car rental, regardless of whether the vehicle is
20 licensed in this state, equal to five and nine-tenths percent of the
21 selling price. The revenue collected under this subsection shall be
22 deposited and distributed in the same manner as motor vehicle excise
23 tax revenue collected under RCW 82.44.020(1).

24 (3) The taxes imposed under this chapter shall apply to successive
25 retail sales of the same property.

26 (4) The rates provided in this section apply to taxes imposed under
27 chapter 82.12 RCW as provided in RCW 82.12.020.

28 **Sec. 203.** RCW 82.12.010 and 1994 c 93 s 1 are each amended to read
29 as follows:

30 For the purposes of this chapter:

31 (1)(a) "Value of the article used" shall mean the consideration,
32 whether money, credit, rights, or other property except trade-in
33 property of like kind, expressed in terms of money, paid or given or
34 contracted to be paid or given by the purchaser to the seller for the
35 article of tangible personal property or service, the use of which is

1 taxable under this chapter. The term includes, in addition to the
2 consideration paid or given or contracted to be paid or given, the
3 amount of any tariff or duty paid with respect to the importation of
4 the article used. In case the article used is acquired by lease or by
5 gift or is extracted, produced, or manufactured by the person using the
6 same or is sold under conditions wherein the purchase price does not
7 represent the true value thereof, the value of the article used shall
8 be determined as nearly as possible according to the retail selling
9 price at place of use of similar products of like quality and character
10 under such rules as the department of revenue may prescribe.

11 (b) In case the articles used are acquired by bailment, the value
12 of the use of the articles so used shall be in an amount representing
13 a reasonable rental for the use of the articles so bailed, determined
14 as nearly as possible according to the value of such use at the places
15 of use of similar products of like quality and character under such
16 rules as the department of revenue may prescribe. In case any such
17 articles of tangible personal property are used in respect to the
18 construction, repairing, decorating, or improving of, and which become
19 or are to become an ingredient or component of, new or existing
20 buildings or other structures under, upon, or above real property of or
21 for the United States, any instrumentality thereof, or a county or city
22 housing authority created pursuant to chapter 35.82 RCW, including the
23 installing or attaching of any such articles therein or thereto,
24 whether or not such personal property becomes a part of the realty by
25 virtue of installation, then the value of the use of such articles so
26 used shall be determined according to the retail selling price of such
27 articles, or in the absence of such a selling price, as nearly as
28 possible according to the retail selling price at place of use of
29 similar products of like quality and character or, in the absence of
30 either of these selling price measures, such value may be determined
31 upon a cost basis, in any event under such rules as the department of
32 revenue may prescribe.

33 (c) In the case of articles owned by a user engaged in business
34 outside the state which are brought into the state for no more than one
35 hundred eighty days in any period of three hundred sixty-five
36 consecutive days and which are temporarily used for business purposes
37 by the person in this state, the value of the article used shall be an
38 amount representing a reasonable rental for the use of the articles,
39 unless the person has paid tax under this chapter or chapter 82.08 RCW

1 upon the full value of the article used, as defined in (a) of this
2 subsection.

3 (d) In the case of articles manufactured or produced by the user
4 and used in the manufacture or production of products sold or to be
5 sold to the department of defense of the United States, the value of
6 the articles used shall be determined according to the value of the
7 ingredients of such articles.

8 (e) In the case of an article manufactured or produced for purposes
9 of serving as a prototype for the development of a new or improved
10 product, the value of the article used shall be determined by: (i) The
11 retail selling price of such new or improved product when first offered
12 for sale; or (ii) the value of materials incorporated into the
13 prototype in cases in which the new or improved product is not offered
14 for sale;

15 (2) "Use," "used," "using," or "put to use" shall have their
16 ordinary meaning, and shall mean:

17 (a) With respect to tangible personal property, the first act
18 within this state by which the taxpayer takes or assumes dominion or
19 control over the article of tangible personal property (as a consumer),
20 and include installation, storage, withdrawal from storage, or any
21 other act preparatory to subsequent actual use or consumption within
22 this state; and

23 (b) With respect to a service, the receipt by the taxpayer of any
24 part of the benefit afforded by the service;

25 (3) "Taxpayer" and "purchaser" include all persons included within
26 the meaning of the word "buyer" and the word "consumer" as defined in
27 chapters 82.04 and 82.08 RCW;

28 (4) "Retailer" means every seller as defined in RCW 82.08.010 and
29 every person engaged in the business of selling tangible personal
30 property at retail and every person required to collect from purchasers
31 the tax imposed under this chapter;

32 (5) The meaning ascribed to words and phrases in chapters 82.04 and
33 82.08 RCW, insofar as applicable, shall have full force and effect with
34 respect to taxes imposed under the provisions of this chapter.
35 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
36 and 82.08 RCW insofar as applicable, shall also mean any person who
37 distributes or displays, or causes to be distributed or displayed, any
38 article of tangible personal property, except newspapers, the primary
39 purpose of which is to promote the sale of products or services.

1 **Sec. 204.** RCW 82.12.020 and 1998 c 332 s 7 are each amended to
2 read as follows:

3 (1) There is hereby levied and there shall be collected from every
4 person in this state a tax or excise for the privilege of using within
5 this state as a consumer: (a) Any article of tangible personal
6 property purchased at retail, or acquired by lease, gift, repossession,
7 or bailment, or extracted or produced or manufactured by the person so
8 using the same, or otherwise furnished to a person engaged in any
9 business taxable under RCW 82.04.280 (2) or (7); (b) any canned
10 software, regardless of the method of delivery, but excluding canned
11 software that is either provided free of charge or is provided for
12 temporary use in viewing information, or both; or (c) any (~~amusement~~
13 ~~or recreation~~) service defined as a retail sale in RCW 82.04.050
14 (3)(a) or (5).

15 (2) This tax shall apply to the use of every service defined as a
16 retail sale in RCW 82.04.050 (3)(a) or (5) and the use of every article
17 of tangible personal property, including property acquired at a casual
18 or isolated sale, and including byproducts used by the manufacturer
19 thereof, except as hereinafter provided, irrespective of whether the
20 article or similar articles are manufactured or are available for
21 purchase within this state.

22 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
23 or user of tangible personal property or service of the tax imposed by
24 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any
25 other purchaser or user of the same property or service from the taxes
26 imposed by such chapters.

27 (4) The tax shall be levied and collected in an amount equal to the
28 value of the article used by the taxpayer multiplied by the rate in
29 effect for the retail sales tax under RCW 82.08.020.

30 **Sec. 205.** RCW 82.12.023 and 1994 c 124 s 10 are each amended to
31 read as follows:

32 The tax levied by RCW 82.12.020 shall not apply in respect to the
33 use of natural or manufactured gas that is (~~taxable under RCW~~
34 ~~82.12.022~~) provided as part of gas service defined as a retail sale in
35 RCW 82.04.050(5).

36 **Sec. 206.** RCW 82.12.035 and 1996 c 148 s 6 are each amended to
37 read as follows:

1 A credit shall be allowed against the taxes imposed by this chapter
2 upon the use of tangible personal property, or services taxable under
3 RCW 82.04.050 (3)(a) or (5), in the state of Washington in the amount
4 that the present user thereof or his or her bailor or donor has paid a
5 retail sales or use tax with respect to such property to any other
6 state of the United States, any political subdivision thereof, the
7 District of Columbia, and any foreign country or political subdivision
8 thereof, prior to the use of such property in Washington.

9 **PART III**

10 **LOCAL SALES AND USE TAXES**

11 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.14
12 RCW to read as follows:

13 (1) The legislative authority of any city or county may impose a
14 sales and use tax upon the sale or use of gas services. In cities and
15 counties with legislative authorities of four or fewer members, two-
16 thirds of the members must approve an ordinance or resolution under
17 this section. In cities and counties with legislative authorities of
18 more than four members, a majority plus one vote must approve an
19 ordinance or resolution under this section.

20 (2) A tax imposed under this section shall be collected from those
21 persons who are taxable by the state pursuant to chapters 82.08 and
22 82.12 RCW, upon the occurrence of any taxable event within the city or
23 county as the case may be. The rate of tax shall not exceed five and
24 eight-tenths percent of the selling price (in the case of a sales tax)
25 or value of the service used (in the case of a use tax).

26 (3) Any county ordinance adopted under this section shall contain,
27 in addition to all other provisions required to conform to this
28 chapter, a provision allowing a credit against the county tax imposed
29 under this section for the full amount of any city sales or use tax
30 imposed under this section upon the same taxable event.

31 **Sec. 302.** RCW 82.14.020 and 1997 c 201 s 1 are each amended to
32 read as follows:

33 For purposes of this chapter:

34 (1) A retail sale consisting solely of the sale of tangible
35 personal property shall be deemed to have occurred at the retail outlet
36 at or from which delivery is made to the consumer;

1 (2) A retail sale consisting essentially of the performance of
2 personal business or professional services shall be deemed to have
3 occurred at the place at which such services were primarily performed,
4 except that for the performance of a tow truck service, as defined in
5 RCW 46.55.010, the retail sale shall be deemed to have occurred at the
6 place of business of the operator of the tow truck service;

7 (3) A retail sale consisting of the rental of tangible personal
8 property shall be deemed to have occurred (a) in the case of a rental
9 involving periodic rental payments, at the primary place of use by the
10 lessee during the period covered by each payment, or (b) in all other
11 cases, at the place of first use by the lessee;

12 (4) A retail sale within the scope of the second paragraph of RCW
13 82.04.050, and a retail sale of taxable personal property to be
14 installed by the seller shall be deemed to have occurred at the place
15 where the labor and services involved were primarily performed;

16 (5) A retail sale consisting of the providing to a consumer of
17 telephone service, as defined in RCW 82.04.065, other than a sale of
18 tangible personal property under subsection (1) of this section or a
19 rental of tangible personal property under subsection (3) of this
20 section, shall be deemed to have occurred at the situs of the telephone
21 or other instrument through which the telephone service is rendered;

22 (6) A retail sale of gas service shall be deemed to have occurred
23 at the situs of the meter measuring the gas delivered to the consumer;

24 (7) "City" means a city or town;

25 ~~((+7))~~ (8) The meaning ascribed to words and phrases in chapters
26 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as
27 applicable, shall have full force and effect with respect to taxes
28 imposed under authority of this chapter;

29 ~~((+8))~~ (9) "Taxable event" shall mean any retail sale, or any use
30 of an article of tangible personal property or service, upon which a
31 state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they
32 now exist or may hereafter be amended: PROVIDED, HOWEVER, That the
33 term shall not include a retail sale taxable pursuant to RCW 82.08.150,
34 as now or hereafter amended;

35 ~~((+9))~~ (10) "Treasurer or other legal depository" shall mean the
36 treasurer or legal depository of a county or city.

37 **Sec. 303.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to
38 read as follows:

1 (1) The governing body of any county or city while not required by
2 legislative mandate to do so, may, by resolution or ordinance for the
3 purposes authorized by this chapter, fix and impose a sales and use tax
4 in accordance with the terms of this chapter. Such tax shall be
5 collected from those persons who are taxable by the state pursuant to
6 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event
7 within the county or city as the case may be: PROVIDED, That except as
8 provided in RCW 82.14.230, this sales and use tax shall not apply to
9 natural or manufactured gas or gas services. The rate of such tax
10 imposed by a county shall be five-tenths of one percent of the selling
11 price (in the case of a sales tax) or value of the article used (in the
12 case of a use tax). The rate of such tax imposed by a city shall not
13 exceed five-tenths of one percent of the selling price (in the case of
14 a sales tax) or value of the article used (in the case of a use tax):
15 PROVIDED, HOWEVER, That in the event a county shall impose a sales and
16 use tax under this subsection, the rate of such tax imposed under this
17 subsection by any city therein shall not exceed four hundred and
18 twenty-five one-thousandths of one percent.

19 (2) Subject to the enactment into law of the 1982 amendment to RCW
20 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in
21 addition to the tax authorized in subsection (1) of this section, the
22 governing body of any county or city may by resolution or ordinance
23 impose an additional sales and use tax in accordance with the terms of
24 this chapter. Such additional tax shall be collected upon the same
25 taxable events upon which the tax imposed under subsection (1) of this
26 section is levied. The rate of such additional tax imposed by a county
27 shall be up to five-tenths of one percent of the selling price (in the
28 case of a sales tax) or value of the article used (in the case of a use
29 tax). The rate of such additional tax imposed by a city shall be up to
30 five-tenths of one percent of the selling price (in the case of a sales
31 tax) or value of the article used (in the case of a use tax): PROVIDED
32 HOWEVER, That in the event a county shall impose a sales and use tax
33 under this subsection at a rate equal to or greater than the rate
34 imposed under this subsection by a city within the county, the county
35 shall receive fifteen percent of the city tax: PROVIDED FURTHER, That
36 in the event that the county shall impose a sales and use tax under
37 this subsection at a rate which is less than the rate imposed under
38 this subsection by a city within the county, the county shall receive
39 that amount of revenues from the city tax equal to fifteen percent of

1 the rate of tax imposed by the county under this subsection. The
2 authority to impose a tax under this subsection is intended in part to
3 compensate local government for any losses from the phase-out of the
4 property tax on business inventories.

5 **Sec. 304.** RCW 82.14.045 and 1998 c 321 s 7 (Referendum Bill No.
6 49) are each amended to read as follows:

7 (1) The legislative body of any city pursuant to RCW 35.92.060, of
8 any county which has created an unincorporated transportation benefit
9 area pursuant to RCW 36.57.100 and 36.57.110, of any public
10 transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090,
11 of any county transportation authority established pursuant to chapter
12 36.57 RCW, and of any metropolitan municipal corporation within a
13 county with a population of one million or more pursuant to chapter
14 35.58 RCW, may, by resolution or ordinance for the sole purpose of
15 providing funds for the operation, maintenance, or capital needs of
16 public transportation systems and in lieu of the excise taxes
17 authorized by RCW 35.95.040, submit an authorizing proposition to the
18 voters or include such authorization in a proposition to perform the
19 function of public transportation and if approved by a majority of
20 persons voting thereon, fix and impose a sales and use tax in
21 accordance with the terms of this chapter: PROVIDED, That no such
22 legislative body shall impose such a sales and use tax without
23 submitting such an authorizing proposition to the voters and obtaining
24 the approval of a majority of persons voting thereon: PROVIDED
25 FURTHER, That where such a proposition is submitted by a county on
26 behalf of an unincorporated transportation benefit area, it shall be
27 voted upon by the voters residing within the boundaries of such
28 unincorporated transportation benefit area and, if approved, the sales
29 and use tax shall be imposed only within such area. Notwithstanding
30 any provisions of this section to the contrary, any county in which a
31 county public transportation plan has been adopted pursuant to RCW
32 36.57.070 and the voters of such county have authorized the imposition
33 of a sales and use tax pursuant to the provisions of section 10,
34 chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be
35 authorized to fix and impose a sales and use tax as provided in this
36 section at not to exceed the rate so authorized without additional
37 approval of the voters of such county as otherwise required by this
38 section.

1 The tax authorized pursuant to this section shall be in addition to
2 (~~the tax authorized by RCW 82.14.030~~) any other taxes authorized by
3 law and shall be collected from those persons who are taxable by the
4 state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of
5 any taxable event within such city, public transportation benefit area,
6 county, or metropolitan municipal corporation as the case may be. The
7 rate of such tax shall be one-tenth, two-tenths, three-tenths, four-
8 tenths, five-tenths, or six-tenths of one percent of the selling price
9 (in the case of a sales tax) or value of the article used (in the case
10 of a use tax). The rate of such tax shall not exceed the rate
11 authorized by the voters unless such increase shall be similarly
12 approved.

13 (2)(a) In the event a metropolitan municipal corporation shall
14 impose a sales and use tax pursuant to this chapter no city, county
15 which has created an unincorporated transportation benefit area, public
16 transportation benefit area authority, or county transportation
17 authority wholly within such metropolitan municipal corporation shall
18 be empowered to levy and/or collect taxes pursuant to RCW 35.58.273,
19 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city
20 or county from imposing sales and use taxes pursuant to any other
21 authorization.

22 (b) In the event a county transportation authority shall impose a
23 sales and use tax pursuant to this section, no city, county which has
24 created an unincorporated transportation benefit area, public
25 transportation benefit area, or metropolitan municipal corporation,
26 located within the territory of the authority, shall be empowered to
27 levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or
28 82.14.045.

29 (c) In the event a public transportation benefit area shall impose
30 a sales and use tax pursuant to this section, no city, county which has
31 created an unincorporated transportation benefit area, or metropolitan
32 municipal corporation, located wholly or partly within the territory of
33 the public transportation benefit area, shall be empowered to levy or
34 collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

35 (3) Any local sales and use tax revenue collected pursuant to this
36 section by any city or by any county for transportation purposes
37 pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally
38 generated tax revenues for the purposes of apportionment and
39 distribution, in the manner prescribed by chapter 82.44 RCW, of the

1 proceeds of the motor vehicle excise tax authorized pursuant to RCW
2 35.58.273, except that the local sales and use tax revenue collected
3 under this section by a city with a population greater than sixty
4 thousand that as of January 1, 1998, owns and operates a municipal
5 public transportation system shall be counted as locally generated tax
6 revenues for the purposes of apportionment and distribution, in the
7 manner prescribed by chapter 82.44 RCW, of the proceeds of the motor
8 vehicle excise tax authorized under RCW 35.58.273 as follows:

9 (a) For fiscal year 2000, revenues collected under this section
10 shall be counted as locally generated tax revenues for up to 25 percent
11 of the tax collected under RCW 35.58.273;

12 (b) For fiscal year 2001, revenues collected under this section
13 shall be counted as locally generated tax revenues for up to 50 percent
14 of the tax collected under RCW 35.58.273;

15 (c) For fiscal year 2002, revenues collected under this section
16 shall be counted as locally generated tax revenues for up to 75 percent
17 of the tax collected under RCW 35.58.273; and

18 (d) For fiscal year 2003 and thereafter, revenues collected under
19 this section shall be counted as locally generated tax revenues for up
20 to 100 percent of the tax collected under RCW 35.58.273.

21 **Sec. 305.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each
22 amended to read as follows:

23 (1) The legislative authority of a county with a population of one
24 million or more may impose a sales and use tax in accordance with the
25 terms of this chapter. The tax is in addition to other taxes
26 authorized by law and shall be collected from those persons who are
27 taxable by the state under chapters 82.08 and 82.12 RCW upon the
28 occurrence of any taxable event within the county: PROVIDED, That this
29 sales and use tax does not apply to gas service. The rate of tax shall
30 not exceed 0.017 percent of the selling price in the case of a sales
31 tax or value of the article used in the case of a use tax.

32 (2) The tax imposed under subsection (1) of this section shall be
33 deducted from the amount of tax otherwise required to be collected or
34 paid over to the department of revenue under chapter 82.08 or 82.12
35 RCW. The department of revenue shall perform the collection of such
36 taxes on behalf of the county at no cost to the county.

1 (3) Moneys collected under this section shall only be used for the
2 purpose of paying the principal and interest payments on bonds issued
3 by a county to construct a baseball stadium.

4 (4) No tax may be collected under this section before January 1,
5 1996, and no tax may be collected under this section unless the taxes
6 under RCW 82.14.360 are being collected. The tax imposed in this
7 section shall expire when the bonds issued for the construction of the
8 baseball stadium are retired, but not more than twenty years after the
9 tax is first collected.

10 (5) As used in this section, "baseball stadium" means a baseball
11 stadium with natural turf and a retractable roof or canopy, together
12 with associated parking facilities, constructed in the largest city in
13 a county with a population of one million or more.

14 **Sec. 306.** RCW 82.14.0494 and 1997 c 220 s 204 (Referendum Bill No.
15 48) are each amended to read as follows:

16 (1) The legislative authority of a county that has created a public
17 stadium authority to develop a stadium and exhibition center under RCW
18 36.102.050 may impose a sales and use tax in accordance with this
19 chapter. The tax is in addition to other taxes authorized by law and
20 shall be collected from those persons who are taxable by the state
21 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
22 event within the county: PROVIDED, That this sales and use tax does
23 not apply to gas service. The rate of tax shall be 0.016 percent of
24 the selling price in the case of a sales tax or value of the article
25 used in the case of a use tax.

26 (2) The tax imposed under subsection (1) of this section shall be
27 deducted from the amount of tax otherwise required to be collected or
28 paid over to the department of revenue under chapter 82.08 or 82.12
29 RCW. The department of revenue shall perform the collection of such
30 taxes on behalf of the county at no cost to the county.

31 (3) Before the issuance of bonds in RCW 43.99N.020, all revenues
32 collected on behalf of the county under this section shall be
33 transferred to the public stadium authority. After bonds are issued
34 under RCW 43.99N.020, all revenues collected on behalf of the county
35 under this section shall be deposited in the stadium and exhibition
36 center account under RCW 43.99N.060.

37 (4) The definitions in RCW 36.102.010 apply to this section.

38 (5) This section expires on the earliest of the following dates:

1 (a) December 31, 1999, if the conditions for issuance of bonds
2 under RCW 43.99N.020 have not been met before that date;

3 (b) The date on which all bonds issued under RCW 43.99N.020 have
4 been retired; or

5 (c) Twenty-three years after the date the tax under this section is
6 first imposed.

7 **Sec. 307.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read
8 as follows:

9 (1) The legislative authority of a distressed county may impose a
10 sales and use tax in accordance with the terms of this chapter. The
11 tax is in addition to other taxes authorized by law and shall be
12 collected from those persons who are taxable by the state under
13 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event
14 within the county: PROVIDED, That this sales and use tax shall not
15 apply to gas service. The rate of tax shall not exceed 0.04 percent of
16 the selling price in the case of a sales tax or value of the article
17 used in the case of a use tax.

18 (2) The tax imposed under subsection (1) of this section shall be
19 deducted from the amount of tax otherwise required to be collected or
20 paid over to the department of revenue under chapter 82.08 or 82.12
21 RCW. The department of revenue shall perform the collection of such
22 taxes on behalf of the county at no cost to the county.

23 (3) Moneys collected under this section shall only be used for the
24 purpose of financing public facilities in rural counties.

25 (4) No tax may be collected under this section before July 1, 1998.
26 No tax may be collected under this section by a county more than
27 twenty-five years after the date that a tax is first imposed under this
28 section.

29 (5) For purposes of this section, "distressed county" means a
30 county in which the average level of unemployment for the three years
31 before the year in which a tax is first imposed under this section
32 exceeds the average state unemployment for those years by twenty
33 percent.

34 **Sec. 308.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to
35 read as follows:

36 Cities that operate transit systems, county transportation
37 authorities, metropolitan municipal corporations, public transportation

1 benefit areas, and regional transit authorities may submit an
2 authorizing proposition to the voters and if approved by a majority of
3 persons voting, fix and impose a sales and use tax in accordance with
4 the terms of this chapter, solely for the purpose of providing high
5 capacity transportation service.

6 The tax authorized pursuant to this section shall be in addition to
7 (~~the tax authorized by RCW 82.14.030~~) any other taxes authorized by
8 law and shall be collected from those persons who are taxable by the
9 state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of
10 any taxable event within the taxing district. The maximum rate of such
11 tax shall be approved by the voters and shall not exceed one percent of
12 the selling price (in the case of a sales tax) or value of the article
13 used (in the case of a use tax). The maximum rate of such tax that may
14 be imposed shall not exceed nine-tenths of one percent in any county
15 that imposes a tax under RCW 82.14.340, or within a regional transit
16 authority if any county within the authority imposes a tax under RCW
17 82.14.340. The exemptions in RCW 82.08.820 and 82.12.820 are for the
18 state portion of the sales and use tax and do not extend to the tax
19 authorized in this section.

20 **PART IV**

21 **STATE PUBLIC UTILITY TAX**

22 **Sec. 401.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to
23 read as follows:

24 For the purposes of this chapter, unless otherwise required by the
25 context:

26 (1) "Railroad business" means the business of operating any
27 railroad, by whatever power operated, for public use in the conveyance
28 of persons or property for hire. It shall not, however, include any
29 business herein defined as an urban transportation business.

30 (2) "Express business" means the business of carrying property for
31 public hire on the line of any common carrier operated in this state,
32 when such common carrier is not owned or leased by the person engaging
33 in such business.

34 (3) "Railroad car business" means the business of operating stock
35 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
36 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
37 other kinds of cars used for transportation of property or persons upon

1 the line of any railroad operated in this state when such railroad is
2 not owned or leased by the person engaging in such business.

3 (4) "Water distribution business" means the business of operating
4 a plant or system for the distribution of water for hire or sale.

5 (5) "Light and power business" means the business of operating a
6 plant or system for the generation, production or distribution of
7 electrical energy for hire or sale and/or for the wheeling of
8 electricity for others.

9 (6) "Telegraph business" means the business of affording
10 telegraphic communication for hire.

11 (~~(7) ("Gas distribution business" means the business of operating~~
12 ~~a plant or system for the production or distribution for hire or sale~~
13 ~~of gas, whether manufactured or natural.~~

14 ~~(8))~~ "Motor transportation business" means the business (except
15 urban transportation business) of operating any motor propelled vehicle
16 by which persons or property of others are conveyed for hire, and
17 includes, but is not limited to, the operation of any motor propelled
18 vehicle as an auto transportation company (except urban transportation
19 business), common carrier or contract carrier as defined by RCW
20 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
21 business" shall not mean or include the transportation of logs or other
22 forest products exclusively upon private roads or private highways.

23 (~~((9))~~) (8) "Urban transportation business" means the business of
24 operating any vehicle for public use in the conveyance of persons or
25 property for hire, insofar as (a) operating entirely within the
26 corporate limits of any city or town, or within five miles of the
27 corporate limits thereof, or (b) operating entirely within and between
28 cities and towns whose corporate limits are not more than five miles
29 apart or within five miles of the corporate limits of either thereof.
30 Included herein, but without limiting the scope hereof, is the business
31 of operating passenger vehicles of every type and also the business of
32 operating cartage, pickup, or delivery services, including in such
33 services the collection and distribution of property arriving from or
34 destined to a point within or without the state, whether or not such
35 collection or distribution be made by the person performing a local or
36 interstate line-haul of such property.

37 (~~((10))~~) (9) "Public service business" means any of the businesses
38 defined in (~~(subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and~~
39 ~~(9))~~) this section or any business subject to control by the state, or

1 having the powers of eminent domain and the duties incident thereto, or
2 any business hereafter declared by the legislature to be of a public
3 service nature, except telephone business as defined in RCW 82.04.065,
4 gas service, and low-level radioactive waste site operating companies
5 as redefined in RCW 81.04.010. It includes, among others, without
6 limiting the scope hereof: Airplane transportation, boom, dock, ferry,
7 pipe line, toll bridge, toll logging road, water transportation and
8 wharf businesses.

9 ~~((11))~~ (10) "Tugboat business" means the business of operating
10 tugboats, towboats, wharf boats or similar vessels in the towing or
11 pushing of vessels, barges or rafts for hire.

12 ~~((12))~~ (11) "Gross income" means the value proceeding or accruing
13 from the performance of the particular public service or transportation
14 business involved, including operations incidental thereto, but without
15 any deduction on account of the cost of the commodity furnished or
16 sold, the cost of materials used, labor costs, interest, discount,
17 delivery costs, taxes, or any other expense whatsoever paid or accrued
18 and without any deduction on account of losses.

19 ~~((13))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the
20 term "tax year," "person," "value proceeding or accruing," "business,"
21 "engaging in business," "in this state," "within this state," "cash
22 discount," "gas service," and "successor" shall apply equally in the
23 provisions of this chapter.

24 **Sec. 402.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to
25 read as follows:

26 (1) There is levied and there shall be collected from every person
27 a tax for the act or privilege of engaging within this state in any one
28 or more of the businesses herein mentioned. The tax shall be equal to
29 the gross income of the business, multiplied by the rate set out after
30 the business, as follows:

31 (a) Express, sewerage collection, and telegraph businesses: Three
32 and six-tenths percent;

33 (b) Light and power business: Three and sixty-two one-hundredths
34 percent;

35 (c) ~~((Gas distribution business: Three and six tenths percent;~~

36 ~~(d))~~ Urban transportation business: Six-tenths of one percent;

1 (~~(e)~~) (d) Vessels under sixty-five feet in length, except
2 tugboats, operating upon the waters within the state: Six-tenths of
3 one percent;

4 (~~(f)~~) (e) Motor transportation, railroad, railroad car, and
5 tugboat businesses, and all public service businesses other than ones
6 mentioned above: One and eight-tenths of one percent;

7 (~~(g)~~) (f) Water distribution business: Four and seven-tenths
8 percent.

9 (2) An additional tax is imposed equal to the rate specified in RCW
10 82.02.030 multiplied by the tax payable under subsection (1) of this
11 section.

12 (3) Twenty percent of the moneys collected under subsection (1) of
13 this section on water distribution businesses and sixty percent of the
14 moneys collected under subsection (1) of this section on sewerage
15 collection businesses shall be deposited in the public works assistance
16 account created in RCW 43.155.050.

17 **Sec. 403.** RCW 82.16.050 and 1994 c 124 s 12 are each amended to
18 read as follows:

19 In computing tax there may be deducted from the gross income the
20 following items:

21 (1) Amounts derived by municipally owned or operated public service
22 businesses, directly from taxes levied for the support or maintenance
23 thereof: PROVIDED, That this section shall not be construed to exempt
24 service charges which are spread on the property tax rolls and
25 collected as taxes;

26 (2) Amounts derived from the sale of commodities to persons in the
27 same public service business as the seller, for resale as such within
28 this state. This deduction is allowed only with respect to water
29 distribution, light and power, (~~(gas distribution)~~) or other public
30 service businesses which furnish water, electrical energy, (~~(gas)~~) or
31 any other commodity in the performance of public service businesses;

32 (3) Amounts actually paid by a taxpayer to another person taxable
33 under this chapter as the latter's portion of the consideration due for
34 services furnished jointly by both, if the total amount has been
35 credited to and appears in the gross income reported for tax by the
36 former;

37 (4) The amount of cash discount actually taken by the purchaser or
38 customer;

1 (5) The amount of credit losses actually sustained by taxpayers
2 whose regular books of accounts are kept upon an accrual basis;

3 (6) Amounts derived from business which the state is prohibited
4 from taxing under the Constitution of this state or the Constitution or
5 laws of the United States;

6 (7) Amounts derived from the distribution of water through an
7 irrigation system, for irrigation purposes;

8 (8) Amounts derived from the transportation of commodities from
9 points of origin in this state to final destination outside this state,
10 or from points of origin outside this state to final destination in
11 this state, with respect to which the carrier grants to the shipper the
12 privilege of stopping the shipment in transit at some point in this
13 state for the purpose of storing, manufacturing, milling, or other
14 processing, and thereafter forwards the same commodity, or its
15 equivalent, in the same or converted form, under a through freight rate
16 from point of origin to final destination; and amounts derived from the
17 transportation of commodities from points of origin in the state to an
18 export elevator, wharf, dock or ship side on tidewater or navigable
19 tributaries thereto from which such commodities are forwarded, without
20 intervening transportation, by vessel, in their original form, to
21 interstate or foreign destinations: PROVIDED, That no deduction will
22 be allowed when the point of origin and the point of delivery to such
23 an export elevator, wharf, dock, or ship side are located within the
24 corporate limits of the same city or town;

25 (9) Amounts derived from the production, sale, or transfer of
26 electrical energy for resale or consumption outside the state;

27 (10) Amounts derived from the distribution of water by a nonprofit
28 water association and used for capital improvements by that nonprofit
29 water association;

30 (11) Amounts paid by a sewerage collection business taxable under
31 RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the
32 treatment or disposal of sewage.

33 **Sec. 404.** RCW 82.16.090 and 1988 c 228 s 1 are each amended to
34 read as follows:

35 Any customer billing issued by a light or power business (~~or gas~~
36 ~~distribution business~~) that serves a total of more than twenty
37 thousand customers and operates within the state shall include the
38 following information:

1 (1) The rates and amounts of taxes paid directly by the customer
2 upon products or services rendered by the light and power business (~~or~~
3 ~~gas distribution business~~); and

4 (2) The rate, origin and approximate amount of each tax levied upon
5 the revenue of the light and power business (~~or gas distribution~~
6 ~~business~~) and added as a component of the amount charged to the
7 customer. Taxes based upon revenue of the light and power business
8 (~~or gas distribution business~~) to be listed on the customer billing
9 need not include taxes levied by the federal government or taxes levied
10 under chapters 54.28, 80.24, or 82.04 RCW.

11
12

PART V
CITY LICENSE FEES AND BUSINESS TAXES

13 **Sec. 501.** RCW 35.21.710 and 1983 2nd ex.s. c 3 s 33 are each
14 amended to read as follows:

15 (1)(a) Any city which imposes a license fee or tax upon business
16 activities consisting of the making of retail sales of tangible
17 personal property or gas service which are measured by gross receipts
18 or gross income from such sales, shall impose such tax at a single
19 uniform rate upon all such business activities. The taxing authority
20 granted to cities for taxes upon business activities measured by gross
21 receipts or gross income from sales shall not exceed a rate of .0020;
22 except (~~that~~) as provided in this section or RCW 35.21.711. Any city
23 with an adopted ordinance at a higher rate, as of January 1, 1982 shall
24 be limited to a maximum increase of ten percent of the January 1982
25 rate, not to exceed an annual incremental increase of two percent of
26 current rate: PROVIDED, That any adopted ordinance which classifies
27 according to different types of business or services shall be subject
28 to both the ten percent and the two percent annual incremental increase
29 limitation on each tax rate: PROVIDED FURTHER, That all surtaxes on
30 business and occupation classifications in effect as of January 1,
31 1982, shall expire no later than December 31, 1982, or by expiration
32 date established by local ordinance.

33 (b)(i) Any city that imposed, as of July 1, 1997, a license fee or
34 tax upon business activities consisting of making retail sales of gas
35 service with a rate exceeding the rate allowed under (a) of this
36 subsection, may continue to impose a license fee or tax upon those
37 businesses at a rate not exceeding the rate imposed on July 1, 1997.

1 (ii) A city imposing a license fee or tax under this subsection
2 (1)(b) shall allow a credit against such license fee or tax for the
3 full amount of any sales or use tax imposed by the city or any other
4 city or county under section 301 of this act upon the same taxable
5 event. A credit under this subsection shall never reduce the license
6 fee or tax to less than zero.

7 (iii) A license fee or tax imposed under this subsection (1)(b)
8 shall expire six years after it is first imposed, unless extended for
9 up to six years by referendum submitted to the voters of the city
10 imposing the tax. A license fee or tax extended by referendum may be
11 extended for additional periods, not exceeding six years each, by
12 additional referenda.

13 (2) Cities which impose a license fee or tax upon business
14 activities consisting of the making of retail sales of tangible
15 personal property or gas service which are measured by gross receipts
16 or gross income from such sales, shall be required to submit an annual
17 report to the state auditor identifying the rate established and the
18 revenues received from each fee or tax. This section shall not apply
19 to any business activities subject to the tax imposed by chapter 82.16
20 RCW.

21 (3) For purposes of this section, the providing to consumers of
22 competitive telephone service, as defined in RCW 82.04.065, shall be
23 deemed to be the retail sale of tangible personal property.

24 (4) For the purposes of this section, "gas service" is defined as
25 provided in chapter 82.04 RCW.

26 **Sec. 502.** RCW 35.21.711 and 1982 1st ex.s. c 49 s 8 are each
27 amended to read as follows:

28 The qualified voters of any city or town may by majority vote
29 approve rates in excess of the provisions of RCW 35.21.710(1)(a).

30 **Sec. 503.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each
31 amended to read as follows:

32 (1) No city or town may impose a franchise fee or any other fee or
33 charge of whatever nature or description upon the light and power
34 business, ((or gas distribution businesses,)) as defined in RCW
35 82.16.010, ((or)) the telephone business, as defined in RCW 82.04.065,
36 or the business of providing gas service as defined in section 101 of
37 this act, except that (a) a tax ((authorized)) as limited by RCW

1 35.21.865 and 35.21.870 may be imposed ((and)) on light and power and
2 telephone businesses, (b) a tax as limited by RCW 35.21.710 may be
3 imposed on gas service business, and (c) a fee may be charged to such
4 businesses that recovers actual administrative expenses incurred by a
5 city or town that are directly related to receiving and approving a
6 permit, license, and franchise, to inspecting plans and construction,
7 or to the preparation of a detailed statement pursuant to chapter
8 43.21C RCW.

9 (2) Subsection (1) of this section does not prohibit franchise fees
10 imposed on an electrical energy(~~(, natural gas,)~~) or telephone
11 business, by contract existing on April 20, 1982, with a city or town,
12 for the duration of the contract, but the franchise fees shall be
13 considered taxes for the purposes of the limitations established in RCW
14 35.21.865 and 35.21.870 to the extent the fees exceed the costs
15 allowable under subsection (1) of this section.

16 (3) Subsection (1) of this section does not prohibit franchise fees
17 imposed on businesses providing gas services by contract existing on
18 April 20, 1982, with a city or town, for the duration of the contract,
19 but to the extent the fees exceed the costs allowable under subsection
20 (1) of this section, the combined rate of a franchise fee, a tax under
21 section 301 of this act, and a tax under RCW 35.21.710 imposed by the
22 city shall not exceed the greater of: (a) The total rate of franchise
23 fee and license fee or tax imposed by the city upon businesses
24 providing gas services on July 1, 1997; or (b) five and five-tenths
25 percent plus the rate in effect under RCW 35.21.710(1)(a) or 35.21.711.

26 **Sec. 504.** RCW 35.21.865 and 1983 c 99 s 4 are each amended to read
27 as follows:

28 No city or town may change the rate of tax it imposes on the
29 privilege of conducting an electrical energy(~~(, natural gas,)~~) or
30 telephone business which change applies to business activities
31 occurring before the effective date of the change, and no rate change
32 may take effect before the expiration of sixty days following the
33 enactment of the ordinance establishing the change except as provided
34 in RCW 35.21.870.

35 **Sec. 505.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to
36 read as follows:

1 (1) No city or town may impose a tax on the privilege of conducting
2 an electrical energy, (~~natural gas,~~) steam energy, or telephone
3 business at a rate which exceeds six percent unless the rate is first
4 approved by a majority of the voters of the city or town voting on such
5 a proposition.

6 (2) If a city or town is imposing a rate of tax under subsection
7 (1) of this section in excess of six percent on April 20, 1982, the
8 city or town shall decrease the rate to a rate of six percent or less
9 by reducing the rate each year on or before November 1st by ordinances
10 to be effective on January 1st of the succeeding year, by an amount
11 equal to one-tenth the difference between the tax rate on April 20,
12 1982, and six percent.

13 Nothing in this subsection prohibits a city or town from reducing
14 its rates by amounts greater than the amounts required in this
15 subsection.

16 Voter approved rate increases under subsection (1) of this section
17 shall not be included in the computations under this subsection.

18 **Sec. 506.** RCW 35A.82.050 and 1983 2nd ex.s. c 3 s 34 are each
19 amended to read as follows:

20 Any code city which imposes a license fee or tax upon business
21 activities consisting of the making of retail sales of tangible
22 personal property or gas service, which are measured by gross receipts
23 or gross income from such sales, (~~shall impose such tax at a single
24 uniform rate upon all such business activities. This section shall not
25 apply to any business activities subject to the tax imposed by chapter
26 82.16 RCW. For purposes of this section, the providing to consumers of
27 competitive telephone service, as defined in RCW 82.04.065, shall be
28 deemed to be the retail sale of tangible personal property~~) is subject
29 to RCW 35.21.710 through 35.21.715.

30 **PART VI**
31 **MISCELLANEOUS**

32 NEW SECTION. **Sec. 601.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 82.08.026 (Exemptions--Sales of natural or manufactured
35 gas) and 1994 c 124 s 8 & 1989 c 384 s 4;

1 (2) RCW 82.12.022 (Natural or manufactured gas--Use tax imposed--
2 Exemption) and 1994 c 124 s 9 & 1989 c 384 s 3; and

3 (3) RCW 82.14.230 (Natural or manufactured gas--Cities may impose
4 use tax) and 1989 c 384 s 2.

5 NEW SECTION. **Sec. 602.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 603.** Part headings used in this act are not any
10 part of the law.

11 NEW SECTION. **Sec. 604.** This act takes effect January 1, 2000.

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